

HOUSE BILL No. 1728

DIGEST OF HB 1728 (Updated February 22, 2005 2:33 pm - DI 92)

Citations Affected: IC 6-3; IC 6-5.5; noncode.

Synopsis: Update of references to the Internal Revenue Code. Provides that for taxable years beginning after December 31, 2004, references in Indiana law to the Internal Revenue Code and related regulations refer to the law and regulations in effect on January 1, 2005. Indicates that the law that requires certain bonus depreciation allowed for federal income tax purposes to be added back for state tax purposes applies to the special depreciation allowance for 50-percent bonus depreciation property. Requires that "Section 179 property" deductions in excess of \$25,000 per year that are allowed for federal income tax purposes be added back for state tax purposes. Requires a taxpayer to add back the amount that the taxpayer deducted for domestic production activities for purposes of the taxpayer's federal income tax.

Effective: January 1, 2005 (retroactive).

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January 19, 2005, read first time and referred to Committee on Ways and Means. February 24, 2005, amended, reported — Do Pass.



First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in this style type. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in this style type or this style type reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1728

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

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SECTION 1. IC 6-3-1-3.5 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]
Sec. 3.5. When used in this article, the term "adjusted gross income
shall mean the following:

- (a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:
 - (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
 - (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
 - (3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).
- (4) Subtract one thousand dollars (\$1,000) for:

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HB 1728-LS 7080/DI 51+



1	(A) each of the exemptions provided by Section 151(c) of the	
2	Internal Revenue Code;	
3	(B) each additional amount allowable under Section 63(f) of	
4	the Internal Revenue Code; and	
5	(C) the spouse of the taxpayer if a separate return is made by	
6	the taxpayer and if the spouse, for the calendar year in which	
7	the taxable year of the taxpayer begins, has no gross income	
8	and is not the dependent of another taxpayer.	
9	(5) Subtract:	
10	(A) one thousand five hundred dollars (\$1,500) for each of the	
11	exemptions allowed under Section 151(c)(1)(B) of the Internal	
12	Revenue Code for taxable years beginning after December 31,	
13	1996; and	
14	(B) five hundred dollars (\$500) for each additional amount	
15	allowable under Section 63(f)(1) of the Internal Revenue Code	
16	if the adjusted gross income of the taxpayer, or the taxpayer	
17	and the taxpayer's spouse in the case of a joint return, is less	,
18	than forty thousand dollars (\$40,000).	
19	This amount is in addition to the amount subtracted under	
20	subdivision (4).	
21	(6) Subtract an amount equal to the lesser of:	
22	(A) that part of the individual's adjusted gross income (as	
23	defined in Section 62 of the Internal Revenue Code) for that	
24	taxable year that is subject to a tax that is imposed by a	
25	political subdivision of another state and that is imposed on or	
26	measured by income; or	_
27	(B) two thousand dollars (\$2,000).	\
28	(7) Add an amount equal to the total capital gain portion of a	
29	lump sum distribution (as defined in Section 402(e)(4)(D) of the	I
30	Internal Revenue Code) if the lump sum distribution is received	
31	by the individual during the taxable year and if the capital gain	
32	portion of the distribution is taxed in the manner provided in	
33	Section 402 of the Internal Revenue Code.	
34	(8) Subtract any amounts included in federal adjusted gross	
35	income under Section 111 of the Internal Revenue Code as a	
36	recovery of items previously deducted as an itemized deduction	
37	from adjusted gross income.	
38	(9) Subtract any amounts included in federal adjusted gross	
39	income under the Internal Revenue Code which amounts were	
40	received by the individual as supplemental railroad retirement	
41	annuities under 45 U.S.C. 231 and which are not deductible under	



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subdivision (1).

1	(10) Add an amount equal to the deduction allowed under Section
2	221 of the Internal Revenue Code for married couples filing joint
3	returns if the taxable year began before January 1, 1987.
4	(11) Add an amount equal to the interest excluded from federal
5	gross income by the individual for the taxable year under Section
6	128 of the Internal Revenue Code if the taxable year began before
7	January 1, 1985.
8	(12) Subtract an amount equal to the amount of federal Social
9	Security and Railroad Retirement benefits included in a taxpayer's
10	federal gross income by Section 86 of the Internal Revenue Code.
11	(13) In the case of a nonresident taxpayer or a resident taxpayer
12	residing in Indiana for a period of less than the taxpayer's entire
13	taxable year, the total amount of the deductions allowed pursuant
14	to subdivisions (3), (4), (5), and (6) shall be reduced to an amount
15	which bears the same ratio to the total as the taxpayer's income
16	taxable in Indiana bears to the taxpayer's total income.
17	(14) In the case of an individual who is a recipient of assistance
18	under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,
19	subtract an amount equal to that portion of the individual's
20	adjusted gross income with respect to which the individual is not
21	allowed under federal law to retain an amount to pay state and
22	local income taxes.
23	(15) In the case of an eligible individual, subtract the amount of
24	a Holocaust victim's settlement payment included in the
25	individual's federal adjusted gross income.
26	(16) For taxable years beginning after December 31, 1999,
27	subtract an amount equal to the portion of any premiums paid
28	during the taxable year by the taxpayer for a qualified long term
29	care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the
30	taxpayer's spouse, or both.
31	(17) Subtract an amount equal to the lesser of:
32	(A) for a taxable year:
33	(i) including any part of 2004, the amount determined under
34	subsection (f); and
35	(ii) beginning after December 31, 2004, two thousand five
36	hundred dollars (\$2,500); or
37	(B) the amount of property taxes that are paid during the
38	taxable year in Indiana by the individual on the individual's
39	principal place of residence.
40	(18) Subtract an amount equal to the amount of a September 11
41	terrorist attack settlement payment included in the individual's



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federal adjusted gross income.

1	(19) Add or subtract the amount necessary to make the adjusted
2	gross income of any taxpayer that owns property for which bonus
3	depreciation was allowed in the current taxable year or in an
4	earlier taxable year equal to the amount of adjusted gross income
5	that would have been computed had an election not been made
6	under Section 168(k)(2)(C)(iii) 168(k) of the Internal Revenue
7	Code to apply bonus depreciation to the property in the year that
8	it was placed in service.
9	(20) Add an amount equal to any deduction allowed under
10	Section 172 of the Internal Revenue Code.
11	(21) Add or subtract the amount necessary to make the
12	adjusted gross income of any taxpayer that placed Section 179
13	property (as defined in Section 179 of the Internal Revenue
14	Code) in service in the current taxable year or in an earlier
15	taxable year equal to the amount of adjusted gross income
16	that would have been computed had an election for federal
17	income tax purposes not been made for the year in which the
18	property was placed in service to take deductions under
19	Section 179 of the Internal Revenue Code in a total amount
20	exceeding twenty-five thousand dollars (\$25,000).
21	(22) Add an amount equal to the amount that a taxpayer
22	claimed as a deduction for domestic production activities for
23	the taxable year under Section 199 of the Internal Revenue
24	Code for federal income tax purposes.
25	(b) In the case of corporations, the same as "taxable income" (as
26	defined in Section 63 of the Internal Revenue Code) adjusted as
27	follows:
28	(1) Subtract income that is exempt from taxation under this article
29	by the Constitution and statutes of the United States.
30	(2) Add an amount equal to any deduction or deductions allowed
31	or allowable pursuant to Section 170 of the Internal Revenue
32	Code.
33	(3) Add an amount equal to any deduction or deductions allowed
34	or allowable pursuant to Section 63 of the Internal Revenue Code
35	for taxes based on or measured by income and levied at the state
36	level by any state of the United States.
37	(4) Subtract an amount equal to the amount included in the
38	corporation's taxable income under Section 78 of the Internal
39	Revenue Code.
40	(5) Add or subtract the amount necessary to make the adjusted

gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an



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1	earlier taxable year equal to the amount of adjusted gross income
2	that would have been computed had an election not been made
3	under Section 168(k)(2)(C)(iii) 168(k) of the Internal Revenue
4	Code to apply bonus depreciation to the property in the year that
5	it was placed in service.
6	(6) Add an amount equal to any deduction allowed under Section
7	172 of the Internal Revenue Code.
8	(7) Add or subtract the amount necessary to make the
9	adjusted gross income of any taxpayer that placed Section 179
10	property (as defined in Section 179 of the Internal Revenue
11	Code) in service in the current taxable year or in an earlier
12	taxable year equal to the amount of adjusted gross income
13	that would have been computed had an election for federal
14	income tax purposes not been made for the year in which the
15	property was placed in service to take deductions under
16	Section 179 of the Internal Revenue Code in an a total amount
17	exceeding twenty-five thousand dollars (\$25,000).
18	(8) Add an amount equal to the amount that a taxpayer
19	claimed as a deduction for domestic production activities for
20	the taxable year under Section 199 of the Internal Revenue
21	Code for federal income tax purposes.
22	(c) In the case of life insurance companies (as defined in Section
23	816(a) of the Internal Revenue Code) that are organized under Indiana
24	law, the same as "life insurance company taxable income" (as defined
25	in Section 801 of the Internal Revenue Code), adjusted as follows:
26	(1) Subtract income that is exempt from taxation under this article
27	by the Constitution and statutes of the United States.
28	(2) Add an amount equal to any deduction allowed or allowable
29	under Section 170 of the Internal Revenue Code.
30	(3) Add an amount equal to a deduction allowed or allowable
31	under Section 805 or Section 831(c) of the Internal Revenue Code
32	for taxes based on or measured by income and levied at the state
33	level by any state.
34	(4) Subtract an amount equal to the amount included in the
35	company's taxable income under Section 78 of the Internal
36	Revenue Code.
37	(5) Add or subtract the amount necessary to make the adjusted
38	gross income of any taxpayer that owns property for which bonus
39	depreciation was allowed in the current taxable year or in an
40	earlier taxable year equal to the amount of adjusted gross income
41	that would have been computed had an election not been made

under Section 168(k)(2)(C)(iii) 168(k) of the Internal Revenue



1	Code to apply bonus depreciation to the property in the year that
2	it was placed in service.
3	(6) Add an amount equal to any deduction allowed under Section
4	172 or Section 810 of the Internal Revenue Code.
5	(7) Add or subtract the amount necessary to make the
6	adjusted gross income of any taxpayer that placed Section 179
7	property (as defined in Section 179 of the Internal Revenue
8	Code) in service in the current taxable year or in an earlier
9	taxable year equal to the amount of adjusted gross income
0	that would have been computed had an election for federal
1	income tax purposes not been made for the year in which the
2	property was placed in service to take deductions under
3	Section 179 of the Internal Revenue Code in an a total amount
4	exceeding twenty-five thousand dollars (\$25,000).
5	(8) Add an amount equal to the amount that a taxpayer
6	claimed as a deduction for domestic production activities for
7	the taxable year under Section 199 of the Internal Revenue
8	Code for federal income tax purposes.
9	(d) In the case of insurance companies subject to tax under Section
20	831 of the Internal Revenue Code and organized under Indiana law, the
21	same as "taxable income" (as defined in Section 832 of the Internal
22	Revenue Code), adjusted as follows:
23	(1) Subtract income that is exempt from taxation under this article
24	by the Constitution and statutes of the United States.
25	(2) Add an amount equal to any deduction allowed or allowable
26	under Section 170 of the Internal Revenue Code.
27	(3) Add an amount equal to a deduction allowed or allowable
28	under Section 805 or Section 831(c) of the Internal Revenue Code
29	for taxes based on or measured by income and levied at the state
0	level by any state.
31	(4) Subtract an amount equal to the amount included in the
32	company's taxable income under Section 78 of the Internal
3	Revenue Code.
34	(5) Add or subtract the amount necessary to make the adjusted
55	gross income of any taxpayer that owns property for which bonus
66	depreciation was allowed in the current taxable year or in an
37	earlier taxable year equal to the amount of adjusted gross income
8	that would have been computed had an election not been made
9	under Section 168(k)(2)(C)(iii) 168(k) of the Internal Revenue
10	Code to apply bonus depreciation to the property in the year that
1	it was placed in service.

(6) Add an amount equal to any deduction allowed under Section



1	172 of the Internal Revenue Code.
2	(7) Add or subtract the amount necessary to make the
3	adjusted gross income of any taxpayer that placed Section 179
4	property (as defined in Section 179 of the Internal Revenue
5	Code) in service in the current taxable year or in an earlier
6	taxable year equal to the amount of adjusted gross income
7	that would have been computed had an election for federal
8	income tax purposes not been made for the year in which the
9	property was placed in service to take deductions under
10	Section 179 of the Internal Revenue Code in an a total amount
11	exceeding twenty-five thousand dollars (\$25,000).
12	(8) Add an amount equal to the amount that a taxpayer
13	claimed as a deduction for domestic production activities for
14	the taxable year under Section 199 of the Internal Revenue
15	Code for federal income tax purposes.
16	(e) In the case of trusts and estates, "taxable income" (as defined for
17	trusts and estates in Section 641(b) of the Internal Revenue Code)
18	adjusted as follows:
19	(1) Subtract income that is exempt from taxation under this article
20	by the Constitution and statutes of the United States.
21	(2) Subtract an amount equal to the amount of a September 11
22	terrorist attack settlement payment included in the federal
23	adjusted gross income of the estate of a victim of the September
24	11 terrorist attack or a trust to the extent the trust benefits a victim
25	of the September 11 terrorist attack.
26	(3) Add or subtract the amount necessary to make the adjusted
27	gross income of any taxpayer that owns property for which bonus
28	depreciation was allowed in the current taxable year or in an
29	earlier taxable year equal to the amount of adjusted gross income
30	that would have been computed had an election not been made
31	under Section 168(k)(2)(C)(iii) 168(k) of the Internal Revenue
32	Code to apply bonus depreciation to the property in the year that
33	it was placed in service.
34	(4) Add an amount equal to any deduction allowed under Section
35	172 of the Internal Revenue Code.
36	(5) Add or subtract the amount necessary to make the
37	adjusted gross income of any taxpayer that placed Section 179
38	property (as defined in Section 179 of the Internal Revenue
39	Code) in service in the current taxable year or in an earlier
40	taxable year equal to the amount of adjusted gross income
41	that would have been computed had an election for federal

income tax purposes not been made for the year in which the



1	property was placed in service to take deductions under
2	Section 179 of the Internal Revenue Code in an a total amount
3	exceeding twenty-five thousand dollars (\$25,000).
4	(6) Add an amount equal to the amount that a taxpayer
5	claimed as a deduction for domestic production activities for
6	the taxable year under Section 199 of the Internal Revenue
7	Code for federal income tax purposes.
8	(f) This subsection applies only to the extent that an individual paid
9	property taxes in 2004 that were imposed for the March 1, 2002,
10	assessment date or the January 15, 2003, assessment date. The
11	maximum amount of the deduction under subsection (a)(17) is equal
12	to the amount determined under STEP FIVE of the following formula:
13	STEP ONE: Determine the amount of property taxes that the
14	taxpayer paid after December 31, 2003, in the taxable year for
15	property taxes imposed for the March 1, 2002, assessment date
16	and the January 15, 2003, assessment date.
17	STEP TWO: Determine the amount of property taxes that the
18	taxpayer paid in the taxable year for the March 1, 2003,
19	assessment date and the January 15, 2004, assessment date.
20	STEP THREE: Determine the result of the STEP ONE amount
21	divided by the STEP TWO amount.
22	STEP FOUR: Multiply the STEP THREE amount by two
23	thousand five hundred dollars (\$2,500).
24	STEP FIVE: Determine the sum of the STEP THREE amount and
25	two thousand five hundred dollars (\$2,500).
26	SECTION 2. IC 6-3-1-11 IS AMENDED TO READ AS FOLLOWS
27	[EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 11. (a) The
28	term "Internal Revenue Code" means the Internal Revenue Code of
29	1986 of the United States as amended and in effect on January 1, 2003.
30	2005.
31	(b) Whenever the Internal Revenue Code is mentioned in this
32	article, the particular provisions that are referred to, together with all
33	the other provisions of the Internal Revenue Code in effect on January
34	1, 2003, 2005 , that pertain to the provisions specifically mentioned,
35	shall be regarded as incorporated in this article by reference and have
36	the same force and effect as though fully set forth in this article. To the
37	extent the provisions apply to this article, regulations adopted under
38	Section 7805(a) of the Internal Revenue Code and in effect on January
39	1, 2003, 2005 , shall be regarded as rules adopted by the department
40	under this article, unless the department adopts specific rules that
41	supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act



1	passed by Congress before January 1, 2003, 2005, that is effective for
2	any taxable year that began before January 1, 2003, 2005, and that
3	affects:
4	(1) individual adjusted gross income (as defined in Section 62 of
5	the Internal Revenue Code);
6	(2) corporate taxable income (as defined in Section 63 of the
7	Internal Revenue Code);
8	(3) trust and estate taxable income (as defined in Section 641(b)
9	of the Internal Revenue Code);
10	(4) life insurance company taxable income (as defined in Section
11	801(b) of the Internal Revenue Code);
12	(5) mutual insurance company taxable income (as defined in
13	Section 821(b) of the Internal Revenue Code); or
14	(6) taxable income (as defined in Section 832 of the Internal
15	Revenue Code);
16	is also effective for that same taxable year for purposes of determining
17	adjusted gross income under section 3.5 of this chapter.
18	SECTION 3. IC 6-3-1-33 IS AMENDED TO READ AS FOLLOWS
19	[EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 33. As
20	used in this article, "bonus depreciation" means an amount equal to that
21	part of any depreciation allowance allowed in computing the taxpayer's
22	federal adjusted gross income or federal taxable income that is
23	attributable to the additional first-year special depreciation allowance
24	(bonus depreciation) for qualified property allowed under Section
25	168(k) of the Internal Revenue Code, including the special
26	depreciation allowance for 50-percent bonus depreciation
27	property.
28	SECTION 4. IC 6-5.5-1-2 IS AMENDED TO READ AS
29	FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]:
30	Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted
31	gross income" means taxable income as defined in Section 63 of the
32	Internal Revenue Code, adjusted as follows:
33	(1) Add the following amounts:
34	(A) An amount equal to a deduction allowed or allowable
35	under Section 166, Section 585, or Section 593 of the Internal
36	Revenue Code.
37	(B) An amount equal to a deduction allowed or allowable
38	under Section 170 of the Internal Revenue Code.
39	(C) An amount equal to a deduction or deductions allowed or
40	allowable under Section 63 of the Internal Revenue Code for
41	taxes based on or measured by income and levied at the state

level by a state of the United States or levied at the local level



1	by any subdivision of a state of the United States.	
2	(D) The amount of interest excluded under Section 103 of the	
3	Internal Revenue Code or under any other federal law, minus	
4	the associated expenses disallowed in the computation of	
5	taxable income under Section 265 of the Internal Revenue	
6	Code.	
7	(E) An amount equal to the deduction allowed under Section	
8	172 or 1212 of the Internal Revenue Code for net operating	
9	losses or net capital losses.	
10	(F) For a taxpayer that is not a large bank (as defined in	
11	Section 585(c)(2) of the Internal Revenue Code), an amount	
12	equal to the recovery of a debt, or part of a debt, that becomes	
13	worthless to the extent a deduction was allowed from gross	
14	income in a prior taxable year under Section 166(a) of the	
15	Internal Revenue Code.	
16	(G) Add the amount necessary to make the adjusted gross	
17	income of any taxpayer that owns property for which bonus	
18	depreciation was allowed in the current taxable year or in an	
19	earlier taxable year equal to the amount of adjusted gross	
20	income that would have been computed had an election not	
21	been made under Section 168(k)(2)(C)(iii) 168(k) of the	
22	Internal Revenue Code to apply bonus depreciation to the	
23	property in the year that it was placed in service.	
24	(H) Add the amount necessary to make the adjusted gross	
25	income of any taxpayer that placed Section 179 property	
26	(as defined in Section 179 of the Internal Revenue Code) in	
27	service in the current taxable year or in an earlier taxable	
28	year equal to the amount of adjusted gross income that	V
29	would have been computed had an election for federal	
30	income tax purposes not been made for the year in which	
31	the property was placed in service to take deductions	
32	under Section 179 of the Internal Revenue Code in a total	
33	amount exceeding twenty-five thousand dollars (\$25,000).	
34	(I) Add an amount equal to the amount that a taxpayer	
35	claimed as a deduction for domestic production activities	
36	for the taxable year under Section 199 of the Internal	
37	Revenue Code for federal income tax purposes.	
38	(2) Subtract the following amounts:	
39	(A) Income that the United States Constitution or any statute	
40	of the United States prohibits from being used to measure the	
41	tax imposed by this chapter.	
42	(B) Income that is derived from sources outside the United	



1	States, as defined by the Internal Revenue Code.
2	(C) An amount equal to a debt or part of a debt that becomes
3	worthless, as permitted under Section 166(a) of the Internal
4	Revenue Code.
5	(D) An amount equal to any bad debt reserves that are
6	included in federal income because of accounting method
7	changes required by Section 585(c)(3)(A) or Section 593 of
8	the Internal Revenue Code.
9	(E) Subtract The amount necessary to make the adjusted gross
10	income of any taxpayer that owns property for which bonus
11	depreciation was allowed in the current taxable year or in an
12	earlier taxable year equal to the amount of adjusted gross
13	income that would have been computed had an election not
14	been made under Section 168(k)(2)(C)(iii) 168(k) of the
15	Internal Revenue Code to apply bonus depreciation.
16	(F) The amount necessary to make the adjusted gross
17	income of any taxpayer that placed Section 179 property
18	(as defined in Section 179 of the Internal Revenue Code) in
19	service in the current taxable year or in an earlier taxable
20	year equal to the amount of adjusted gross income that
21	would have been computed had an election for federal
22	income tax purposes not been made for the year in which
23	the property was placed in service to take deductions
24	under Section 179 of the Internal Revenue Code in a total
25	amount exceeding twenty-five thousand dollars (\$25,000).
26	(b) In the case of a credit union, "adjusted gross income" for a
27	taxable year means the total transfers to undivided earnings minus
28	dividends for that taxable year after statutory reserves are set aside
29	under IC 28-7-1-24.
30	(c) In the case of an investment company, "adjusted gross income"
31	means the company's federal taxable income multiplied by the quotient
32	of:
33	(1) the aggregate of the gross payments collected by the company
34	during the taxable year from old and new business upon
35	investment contracts issued by the company and held by residents
36	of Indiana; divided by
37	(2) the total amount of gross payments collected during the
38	taxable year by the company from the business upon investment
39	contracts issued by the company and held by persons residing
40	within Indiana and elsewhere.
41	(d) As used in subsection (c), "investment company" means a

person, copartnership, association, limited liability company, or



1	corporation, whether domestic or foreign, that:	
2	(1) is registered under the Investment Company Act of 1940 (15	
3	U.S.C. 80a-1 et seq.); and	
4	(2) solicits or receives a payment to be made to itself and issues	
5	in exchange for the payment:	
6	(A) a so-called bond;	
7	(B) a share;	
8	(C) a coupon;	
9	(D) a certificate of membership;	
10	(E) an agreement;	
11	(F) a pretended agreement; or	
12	(G) other evidences of obligation;	
13	entitling the holder to anything of value at some future date, if the	
14	gross payments received by the company during the taxable year	
15	on outstanding investment contracts, plus interest and dividends	_
16	earned on those contracts (by prorating the interest and dividends	
17	earned on investment contracts by the same proportion that	
18	certificate reserves (as defined by the Investment Company Act	
19	of 1940) is to the company's total assets) is at least fifty percent	
20	(50%) of the company's gross payments upon investment	
21	contracts plus gross income from all other sources except	
22	dividends from subsidiaries for the taxable year. The term	
23	"investment contract" means an instrument listed in clauses (A)	
24	through (G).	_
25	SECTION 5. IC 6-5.5-1-20 IS AMENDED TO READ AS	
26	FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]:	
27	Sec. 20. As used in this article, "bonus depreciation" means an amount	
28	equal to that part of any depreciation allowance allowed in computing	
29	the taxpayer's federal taxable income that is attributable to the	
30	additional first-year special depreciation allowance (bonus	
31	depreciation) for qualified property allowed under Section 168(k) of	
32	the Internal Revenue Code, including the special depreciation	
33	allowance for 50-percent bonus depreciation property.	
34	SECTION 6. [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]	
35	(a) As used in this SECTION, "taxable year" has the meaning set	
36	forth in IC 6-3-1-16.	
37	(b) IC 6-3-1-11, as amended by this act, applies only to taxable	
38	years beginning after December 31, 2004.	
39	SECTION 7. [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]:	
40	(a) IC 6-3-1-3.5 and IC 6-5.5-1-2, both as amended by this act,	
41	apply only to taxable years beginning after December 31, 2004.	
12	thi This act may not be construed to authorize a taypayer to	



1	deduct from the taxpayer's Indiana adjusted gross income the	
2	amount of a deduction under Section 179 of the Internal Revenue	
3	Code in a total amount exceeding twenty-five thousand dollars	
4	(\$25,000) taken by the taxpayer before January 1, 2005.	
5	SECTION 8. An emergency is declared for this act.	

C o p



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1728, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-3-1-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

- (a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:
 - (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
 - (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
 - (3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).
 - (4) Subtract one thousand dollars (\$1,000) for:
 - (A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;
 - (B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and
 - (C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.
 - (5) Subtract:
 - (A) one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and
 - (B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

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This amount is in addition to the amount subtracted under subdivision (4).

- (6) Subtract an amount equal to the lesser of:
 - (A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or
 - (B) two thousand dollars (\$2,000).
- (7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.
- (8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.
- (9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).
- (10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.
- (11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.
- (12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code. (13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.
- (14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,













subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

- (15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.
- (16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.
- (17) Subtract an amount equal to the lesser of:
 - (A) for a taxable year:
 - (i) including any part of 2004, the amount determined under subsection (f); and
 - (ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or
 - (B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.
- (18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.
- (19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section $\frac{168(k)(2)(C)(iii)}{168(k)}$ of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
- (20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
- (21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under

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Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

- (22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.
- (b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:
 - (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
 - (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.
 - (3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
 - (4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.
 - (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section $\frac{168(k)(2)(C)(iii)}{168(k)}$ of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
 - (6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
 - (7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an a total amount exceeding twenty-five thousand dollars (\$25,000).
 - (8) Add an amount equal to the amount that a taxpayer











claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

- (c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:
 - (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
 - (2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.
 - (3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.
 - (4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.
 - (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section $\frac{168(k)(2)(C)(iii)}{168(k)}$ of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
 - (6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.
 - (7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an a total amount exceeding twenty-five thousand dollars (\$25,000).
 - (8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

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- (d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:
 - (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
 - (2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.
 - (3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.
 - (4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.
 - (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section $\frac{168(k)(2)(C)(iii)}{168(k)}$ of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
 - (6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
 - (7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an a total amount exceeding twenty-five thousand dollars (\$25,000).
 - (8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.
- (e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

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- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.
- (3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section $\frac{168(k)(2)(C)(iii)}{168(k)}$ of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
- (4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an a total amount exceeding twenty-five thousand dollars (\$25,000).
- (6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.
- (f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003,













assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP THREE amount and two thousand five hundred dollars (\$2,500).".

Page 2, between lines 17 and 18, begin a new paragraph and insert: "SECTION 3. IC 6-3-1-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 33. As used in this article, "bonus depreciation" means an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal adjusted gross income or federal taxable income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code, including the special depreciation allowance for 50-percent bonus depreciation property.

SECTION 4. IC 6-5.5-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted gross income" means taxable income as defined in Section 63 of the Internal Revenue Code, adjusted as follows:

- (1) Add the following amounts:
 - (A) An amount equal to a deduction allowed or allowable under Section 166, Section 585, or Section 593 of the Internal Revenue Code.
 - (B) An amount equal to a deduction allowed or allowable under Section 170 of the Internal Revenue Code.
 - (C) An amount equal to a deduction or deductions allowed or allowable under Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by a state of the United States or levied at the local level by any subdivision of a state of the United States.
 - (D) The amount of interest excluded under Section 103 of the Internal Revenue Code or under any other federal law, minus the associated expenses disallowed in the computation of taxable income under Section 265 of the Internal Revenue Code.
 - (E) An amount equal to the deduction allowed under Section 172 or 1212 of the Internal Revenue Code for net operating losses or net capital losses.









- (F) For a taxpayer that is not a large bank (as defined in Section 585(c)(2) of the Internal Revenue Code), an amount equal to the recovery of a debt, or part of a debt, that becomes worthless to the extent a deduction was allowed from gross income in a prior taxable year under Section 166(a) of the Internal Revenue Code.
- (G) Add the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section $\frac{168(k)(2)(C)(iii)}{168(k)}$ of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
- (H) Add the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000). (I) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal
- (2) Subtract the following amounts:
 - (A) Income that the United States Constitution or any statute of the United States prohibits from being used to measure the tax imposed by this chapter.

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- (B) Income that is derived from sources outside the United States, as defined by the Internal Revenue Code.
- (C) An amount equal to a debt or part of a debt that becomes worthless, as permitted under Section 166(a) of the Internal Revenue Code.
- (D) An amount equal to any bad debt reserves that are included in federal income because of accounting method changes required by Section 585(c)(3)(A) or Section 593 of the Internal Revenue Code.
- (E) Subtract The amount necessary to make the adjusted gross











income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section $\frac{168(k)(2)(C)(iii)}{168(k)}$ of the Internal Revenue Code to apply bonus depreciation.

- (F) The amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).
- (b) In the case of a credit union, "adjusted gross income" for a taxable year means the total transfers to undivided earnings minus dividends for that taxable year after statutory reserves are set aside under IC 28-7-1-24.
- (c) In the case of an investment company, "adjusted gross income" means the company's federal taxable income multiplied by the quotient of:
 - (1) the aggregate of the gross payments collected by the company during the taxable year from old and new business upon investment contracts issued by the company and held by residents of Indiana; divided by
 - (2) the total amount of gross payments collected during the taxable year by the company from the business upon investment contracts issued by the company and held by persons residing within Indiana and elsewhere.
- (d) As used in subsection (c), "investment company" means a person, copartnership, association, limited liability company, or corporation, whether domestic or foreign, that:
 - (1) is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); and
 - (2) solicits or receives a payment to be made to itself and issues in exchange for the payment:
 - (A) a so-called bond;
 - (B) a share;
 - (C) a coupon;
 - (D) a certificate of membership;

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- (E) an agreement;
- (F) a pretended agreement; or
- (G) other evidences of obligation;

entitling the holder to anything of value at some future date, if the gross payments received by the company during the taxable year on outstanding investment contracts, plus interest and dividends earned on those contracts (by prorating the interest and dividends earned on investment contracts by the same proportion that certificate reserves (as defined by the Investment Company Act of 1940) is to the company's total assets) is at least fifty percent (50%) of the company's gross payments upon investment contracts plus gross income from all other sources except dividends from subsidiaries for the taxable year. The term "investment contract" means an instrument listed in clauses (A) through (G).

SECTION 5. IC 6-5.5-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 20. As used in this article, "bonus depreciation" means an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal taxable income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code, including the special depreciation allowance for 50-percent bonus depreciation property."

Page 2, between lines 22 and 23, begin a new paragraph and insert: "SECTION 7. [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: (a) IC 6-3-1-3.5 and IC 6-5.5-1-2, both as amended by this act, apply only to taxable years beginning after December 31, 2004.

(b) This act may not be construed to authorize a taxpayer to deduct from the taxpayer's Indiana adjusted gross income the amount of a deduction under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000) taken by the taxpayer before January 1, 2005.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1728 as introduced.)

ESPICH, Chair

Committee Vote: yeas 21, nays 0.



C





